

# State of South Dakota

## SEVENTY-THIRD SESSION LEGISLATIVE ASSEMBLY, 1998

454B0628

### SENATE BILL NO. 139

Introduced by: Senators Olson, Brown (Arnold), Dunn (Jim), and Halverson and  
Representatives Cutler, Belatti, Eccarius, Fiegen, Fischer-Clemens, Rost, and  
Windhorst

1 FOR AN ACT ENTITLED, An Act to clarify the scope and composition of peer review  
2 committees entitled to limited good faith immunity from civil liability for committee actions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 36-4 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 For the purposes of this Act, a peer review committee is any committee of a state or local  
7 professional association or society, any committee of a licensed health care facility or the medical  
8 staff of a licensed health care facility, or any committee comprised wholly of physicians within  
9 a medical care foundation, health maintenance organization, preferred provider organization,  
10 independent practice association, group medical practice, provider sponsored organization, or  
11 any other organization of physicians formed pursuant to state or federal law, that engages in peer  
12 review activity.

13 Section 2. That chapter 36-4 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 For the purposes of this Act, peer review activity is the procedure by which peer review

committees monitor, evaluate, and take actions to improve the delivery and quality of services within their respective facilities, agencies, and professions, including recommendations, consideration of recommendations, actions with regard to recommendations, and implementation of actions. Peer review activity and acts or proceedings undertaken or performed within the scope of the functions of a peer review committee include:

- (1) Matters affecting membership of a health professional on the staff of a health care facility or agency;
- (2) The grant, delineation, renewal, denial, modification, limitation, or suspension of clinical privileges to provide health care services at a health care facility or agency;
- (3) Matters affecting employment and terms of employment of a health professional by a health care facility or agency, health maintenance organization, preferred provider organization, independent practice association, or any other organization of physicians formed pursuant to state or federal law;
- (4) Matters affecting the membership and terms of membership in a health professional association, including decisions to suspend membership privileges, expel from membership, reprimand, or censure a member, or other disciplinary actions;
- (5) Review of qualifications, activities, conduct, or performance of any health professional, including the medical residents of health care facility; and
- (6) Review of the quality of services provided by one or more health professionals or medical residents, individually or as a statistically significant group, or both.

Section 3. That § 36-4-25 be amended to read as follows:

36-4-25. There ~~may be~~ is no monetary liability on the part of, and no cause of action for damages may arise, against, any member of a duly appointed peer review committee ~~of a state or local professional society, engaging in peer review activity comprised solely~~ of physicians licensed to practice their profession in the State of South Dakota, ~~or duly appointed member of~~

1 ~~a committee of a medical staff of a licensed hospital~~ medicine or osteopathy under this chapter,  
2 ~~or against any~~ duly appointed consultant to a peer review committee or to the medical staff or  
3 ~~to the governing board of such a hospital, provided the medical staff operates pursuant to written~~  
4 ~~bylaws that have been approved by the governing board of the hospital, or member of a duly~~  
5 ~~appointed review committee of a South Dakota nonprofit corporation organized and operating~~  
6 ~~solely or partially, as a professional standards review organization,~~ for any act or proceeding  
7 undertaken or performed within the scope of the functions of ~~any such~~ the committee ~~which is~~  
8 ~~formed to maintain the professional standards of the society established by its bylaws, if such~~ the  
9 committee member or consultant acts without malice, has made a reasonable effort to obtain the  
10 facts of the matter ~~as to which he acts~~ under consideration, and acts in reasonable belief that the  
11 action taken ~~by him~~ is warranted by ~~the~~ those facts ~~known to him after such reasonable effort to~~  
12 ~~obtain facts. "Professional society" includes medical organizations having as members as least~~  
13 ~~a majority of the eligible licensees in the area served by the particular society. The provisions of~~  
14 this section do not affect the official immunity of an officer or employee of a public corporation.